

[DISCUSSION DRAFT]

SEPTEMBER 28, 2003

1 **TITLE VI—NUCLEAR MATTERS**
2 **Subtitle A—Price-Anderson Act**
3 **Amendments**

4 **SEC. 601. SHORT TITLE.**

5 This subtitle may be cited as the “Price-Anderson
6 Amendments Act of 2003”.

7 **SEC. 602. EXTENSION OF INDEMNIFICATION AUTHORITY.**

8 (a) INDEMNIFICATION OF NUCLEAR REGULATORY
9 COMMISSION LICENSEES.—Section 170 c. of the Atomic
10 Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

11 (1) in the subsection heading, by striking “LI-
12 CENSES” and inserting “LICENSEES”; and

13 (2) by striking “December 31, 2003” each
14 place it appears and inserting “December 31,
15 2023”.

16 (b) INDEMNIFICATION OF DEPARTMENT OF ENERGY
17 CONTRACTORS.—Section 170 d.(1)(A) of the Atomic En-
18 ergy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended
19 by striking “December 31, 2004” and inserting “Decem-
20 ber 31, 2023”.

21 (c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL
22 INSTITUTIONS.—Section 170 k. of the Atomic Energy Act
23 of 1954 (42 U.S.C. 2210(k)) is amended by striking “Au-

1 gust 1, 2002” each place it appears and inserting “Decem-
2 ber 31, 2023”.

3 **SEC. 603. MAXIMUM ASSESSMENT.**

4 Section 170 of the Atomic Energy Act of 1954 (42
5 U.S.C. 2210) is amended—

6 (1) in the second proviso of the third sentence
7 of subsection b.(l)—

8 (A) by striking “\$63,000,000” and insert-
9 ing “\$95,800,000”; and

10 (B) by striking “\$10,000,000 in any 1
11 year” and inserting “\$15,000,000 in any 1 year
12 (subject to adjustment for inflation under sub-
13 section t.)”; and

14 (2) in subsection t.(1)—

15 (A) by inserting “total and annual” after
16 “amount of the maximum”;

17 (B) by striking “the date of the enactment
18 of the Price-Anderson Amendments Act of
19 1988” and inserting “August 20, 2003”; and

20 (C) in subparagraph (A), by striking “such
21 date of enactment” and inserting “August 20,
22 2003”.

23 **SEC. 604. DEPARTMENT OF ENERGY LIABILITY LIMIT.**

24 (a) INDEMNIFICATION OF DEPARTMENT OF ENERGY
25 CONTRACTORS.—Section 170 d. of the Atomic Energy Act

1 of 1954 (42 U.S.C. 2210(d)) is amended by striking para-
2 graph (2) and inserting the following:

3 “(2) In an agreement of indemnification entered into
4 under paragraph (1), the Secretary—

5 “(A) may require the contractor to provide and
6 maintain financial protection of such a type and in
7 such amounts as the Secretary shall determine to be
8 appropriate to cover public liability arising out of or
9 in connection with the contractual activity; and

10 “(B) shall indemnify the persons indemnified
11 against such liability above the amount of the finan-
12 cial protection required, in the amount of
13 \$10,000,000,000 (subject to adjustment for inflation
14 under subsection t.), in the aggregate, for all per-
15 sons indemnified in connection with the contract and
16 for each nuclear incident, including such legal costs
17 of the contractor as are approved by the Secretary.”.

18 (b) CONTRACT AMENDMENTS.—Section 170 d. of the
19 Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further
20 amended by striking paragraph (3) and inserting the
21 following—

22 “(3) All agreements of indemnification under which
23 the Department of Energy (or its predecessor agencies)
24 may be required to indemnify any person under this sec-
25 tion shall be deemed to be amended, on the date of enact-

1 ment of the Price-Anderson Amendments Act of 2003, to
2 reflect the amount of indemnity for public liability and any
3 applicable financial protection required of the contractor
4 under this subsection.”.

5 (c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the
6 Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is
7 amended—

8 (1) by striking “the maximum amount of finan-
9 cial protection required under subsection b. or”; and

10 (2) by striking “paragraph (3) of subsection d.,
11 whichever amount is more” and inserting “para-
12 graph (2) of subsection d.”.

13 **SEC. 605. INCIDENTS OUTSIDE THE UNITED STATES.**

14 (a) AMOUNT OF INDEMNIFICATION.—Section 170
15 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C.
16 2210(d)(5)) is amended by striking “\$100,000,000” and
17 inserting “\$500,000,000”.

18 (b) LIABILITY LIMIT.—Section 170 e.(4) of the
19 Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is
20 amended by striking “\$100,000,000” and inserting
21 “\$500,000,000”.

22 **SEC. 606. REPORTS.**

23 Section 170 p. of the Atomic Energy Act of 1954 (42
24 U.S.C. 2210(p)) is amended by striking “August 1, 1998”
25 and inserting “December 31, 2019”.

1 **SEC. 607. INFLATION ADJUSTMENT.**

2 Section 170 t. of the Atomic Energy Act of 1954 (42
3 U.S.C. 2210(t)) is amended—

4 (1) by redesignating paragraph (2) as para-
5 graph (3); and

6 (2) by inserting after paragraph (1) the fol-
7 lowing:

8 “(2) The Secretary shall adjust the amount of indem-
9 nification provided under an agreement of indemnification
10 under subsection d. not less than once during each 5-year
11 period following July 1, 2003, in accordance with the ag-
12 gregate percentage change in the Consumer Price Index
13 since—

14 “(A) that date, in the case of the first adjust-
15 ment under this paragraph; or

16 “(B) the previous adjustment under this para-
17 graph.”.

18 **SEC. 608. TREATMENT OF MODULAR REACTORS.**

19 Section 170 b. of the Atomic Energy Act of 1954 (42
20 U.S.C. 2210(b)) is amended by adding at the end the fol-
21 lowing:

22 “(5)(A) For purposes of this section only, the Com-
23 mission shall consider a combination of facilities described
24 in subparagraph (B) to be a single facility having a rated
25 capacity of 100,000 electrical kilowatts or more.

1 “(B) A combination of facilities referred to in sub-
2 paragraph (A) is 2 or more facilities located at a single
3 site, each of which has a rated capacity of 100,000 elec-
4 trical kilowatts or more but not more than 300,000 elec-
5 trical kilowatts, with a combined rated capacity of not
6 more than 1,300,000 electrical kilowatts.”.

7 **SEC. 609. APPLICABILITY.**

8 The amendments made by sections 603, 604, and 605
9 do not apply to a nuclear incident that occurs before the
10 date of the enactment of this Act.

11 **SEC. 610. PROHIBITION ON ASSUMPTION BY UNITED**
12 **STATES GOVERNMENT OF LIABILITY FOR**
13 **CERTAIN FOREIGN ACCIDENTS.**

14 Section 170 of the Atomic Energy Act of 1954 (42
15 U.S.C. 2210) is amended by adding at the end the fol-
16 lowing new subsection:

17 “u. PROHIBITION ON ASSUMPTION OF LIABILITY FOR
18 CERTAIN FOREIGN ACCIDENTS.—Notwithstanding this
19 section or any other provision of law, no officer of the
20 United States or of any department, agency, or instrumen-
21 tality of the United States Government may enter into any
22 contract or other arrangement, or into any amendment or
23 modification of a contract or other arrangement, the pur-
24 pose or effect of which would be to directly or indirectly
25 impose liability on the United States Government, or any

1 department, agency, or instrumentality of the United
2 States Government, or to otherwise directly or indirectly
3 require an indemnity by the United States Government,
4 for nuclear accidents occurring in connection with the de-
5 sign, construction, or operation of a production facility or
6 utilization facility in any country whose government has
7 been identified by the Secretary of State as engaged in
8 state sponsorship of terrorist activities (specifically includ-
9 ing any country the government of which, as of September
10 11, 2001, had been determined by the Secretary of State
11 under section 620A(a) of the Foreign Assistance Act of
12 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export
13 Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)),
14 or section 40(d) of the Arms Export Control Act (22
15 U.S.C. 2780(d)) to have repeatedly provided support for
16 acts of international terrorism). This subsection shall not
17 apply to accidents occurring as a result of missions, car-
18 ried out under the direction of the Secretary of Energy,
19 the Secretary of Defense, or the Secretary of State, that
20 are necessary to safely secure, store, transport, or remove
21 nuclear materials for nuclear safety or nonproliferation
22 purposes.”.

1 **SEC. 611. CIVIL PENALTIES.**

2 (a) REPEAL OF AUTOMATIC REMISSION.—Section
3 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C.
4 2282a(b)(2)) is amended by striking the last sentence.

5 (b) LIMITATION FOR NOT-FOR-PROFIT INSTITU-
6 TIONS.—Subsection d. of section 234A of the Atomic En-
7 ergy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read
8 as follows:

9 “d.(1) Notwithstanding subsection a., in the case of
10 any not-for-profit contractor, subcontractor, or supplier,
11 the total amount of civil penalties paid under subsection
12 a. may not exceed the total amount of fees paid within
13 any one-year period (as determined by the Secretary)
14 under the contract under which the violation occurs.

15 “(2) For purposes of this section, the term “not-for-
16 profit” means that no part of the net earnings of the con-
17 tractor, subcontractor, or supplier inures to the benefit of
18 any natural person or for-profit artificial person.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall not apply to any violation of the Atomic
21 Energy Act of 1954 (42 U.S.C. 2011 et seq.) occurring
22 under a contract entered into before the date of enactment
23 of this section.

1 **[SEC. 612. FINANCIAL ACCOUNTABILITY.**

2 (a) AMENDMENT.—Section 170 of the Atomic En-
3 ergy Act of 1954 (42 U.S.C. 2210) is amended by adding
4 at the end the following new subsection:

5 “v. FINANCIAL ACCOUNTABILITY.—(1) Notwith-
6 standing subsection d., the Attorney General may bring
7 an action in the appropriate United States district court
8 to recover from a contractor of the Secretary (or subcon-
9 tractor or supplier of such contractor) amounts paid by
10 the Federal Government under an agreement of indem-
11 nification under subsection d. for public liability resulting
12 from conduct that constitutes intentional misconduct of
13 any corporate officer, manager, or superintendent of such
14 contractor (or subcontractor or supplier of such con-
15 tractor).

16 “(2) The Attorney General may recover under para-
17 graph (1) an amount not to exceed the amount of the prof-
18 it derived by the defendant from the contract.

19 “(3) No amount recovered from any contractor (or
20 subcontractor or supplier of such contractor) under para-
21 graph (1) may be reimbursed directly or indirectly by the
22 Department of Energy.

23 “(4) Paragraph (1) shall not apply to any nonprofit
24 entity conducting activities under contract for the Sec-
25 retary.

1 “(5) No waiver of a defense required under this sec-
2 tion shall prevent a defendant from asserting such defense
3 in an action brought under this subsection.

4 “(6) The Secretary shall, by rule, define the terms
5 ‘profit’ and ‘nonprofit entity’ for purposes of this sub-
6 section. Such rulemaking shall be completed not later than
7 180 days after the date of the enactment of this sub-
8 section.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall not apply to any agreement of indem-
11 nification entered into under section 170 d. of the Atomic
12 Energy Act of 1954 (42 U.S.C. 2210(d)) before the date
13 of enactment of this Act.】

14 **Subtitle B—General Nuclear**
15 **Matters**

16 **SEC. 621. LICENSES.**

17 Section 103 c. of the Atomic Energy Act of 1954 (42
18 U.S.C. 2133(c)) is amended by inserting “from the au-
19 thorization to commence operations” after “forty years”.

20 **SEC. 622. NRC TRAINING PROGRAM.**

21 (a) IN GENERAL.—In order to maintain the human
22 resource investment and infrastructure of the United
23 States in the nuclear sciences, health physics, and engi-
24 neering fields, in accordance with the statutory authorities
25 of the Commission relating to the civilian nuclear energy

1 program, the Nuclear Regulatory Commission shall carry
2 out a training and fellowship program to address short-
3 ages of individuals with critical nuclear safety regulatory
4 skills.

5 (b) AUTHORIZATION OF APPROPRIATIONS.—

6 (1) IN GENERAL.—There are authorized to be
7 appropriated to carry out this section \$1,000,000 for
8 each of fiscal years 2004 through 2008.

9 (2) AVAILABILITY.—Funds made available
10 under paragraph (1) shall remain available until ex-
11 pended.

12 **SEC. 623. COST RECOVERY FROM GOVERNMENT AGENCIES.**

13 Section 161 w. of the Atomic Energy Act of 1954
14 (42 U.S.C. 2201(w)) is amended—

15 (1) by striking “for or is issued” and all that
16 follows through “1702” and inserting “to the Com-
17 mission for, or is issued by the Commission, a li-
18 cense or certificate”;

19 (2) by striking “483a” and inserting “9701”;
20 and

21 (3) by striking “, of applicants for, or holders
22 of, such licenses or certificates”.

1 **SEC. 624. ELIMINATION OF PENSION OFFSET.**

2 Section 161 of the Atomic Energy Act of 1954 (42
3 U.S.C. 2201) is amended by adding at the end the fol-
4 lowing:

5 “y. Exempt from the application of sections 8344 and
6 8468 of title 5, United States Code, an annuitant who was
7 formerly an employee of the Commission who is hired by
8 the Commission as a consultant, if the Commission finds
9 that the annuitant has a skill that is critical to the per-
10 formance of the duties of the Commission.”.

11 **SEC. 625. ANTITRUST REVIEW.**

12 (a) IN GENERAL.—Section 105 of the Atomic Energy
13 Act of 1954 (42 U.S.C. 2135) is amended by adding at
14 the end the following:

15 “d. ANTITRUST LAWS.—

16 “(1) NOTIFICATION.—Except as provided in
17 paragraph (4), when the Commission proposes to
18 issue a license under section 103 or 104 b., the
19 Commission shall notify the Attorney General of the
20 proposed license and the proposed terms and condi-
21 tions of the license.

22 “(2) ACTION BY THE ATTORNEY GENERAL.—
23 Within a reasonable time (but not more than 90
24 days) after receiving notification under paragraph
25 (1), the Attorney General shall submit to the Com-
26 mission and publish in the Federal Register a deter-

1 mination whether, insofar as the Attorney General is
2 able to determine, the proposed license would tend
3 to create or maintain a situation inconsistent with
4 the antitrust laws.

5 “(3) INFORMATION.—On the request of the At-
6 torney General, the Commission shall furnish or
7 cause to be furnished such information as the Attor-
8 ney General determines to be appropriate or nec-
9 essary to enable the Attorney General to make the
10 determination under paragraph (2).

11 “(4) APPLICABILITY.—This subsection shall not
12 apply to such classes or type of licenses as the Com-
13 mission, with the approval of the Attorney General,
14 determines would not significantly affect the activi-
15 ties of a licensee under the antitrust laws.”.

16 (b) CONFORMING AMENDMENT.—Section 105 c. of
17 the Atomic Energy Act of 1954 (42 U.S.C. 2135(c)) is
18 amended by adding at the end the following:

19 “(9) APPLICABILITY.—This subsection does not
20 apply to an application for a license to construct or oper-
21 ate a utilization facility under section 103 or 104 b. that
22 is filed on or after the date of enactment of subsection
23 d.”.

1 **SEC. 626. DECOMMISSIONING.**

2 Section 161 i. of the Atomic Energy Act of 1954 (42
3 U.S.C. 2201(i)) is amended—

4 (1) by striking “and (3)” and inserting “(3)”;
5 and

6 (2) by inserting before the semicolon at the end
7 the following: “, and (4) to ensure that sufficient
8 funds will be available for the decommissioning of
9 any production or utilization facility licensed under
10 section 103 or 104 b., including standards and re-
11 strictions governing the control, maintenance, use,
12 and disbursement by any former licensee under this
13 Act that has control over any fund for the decom-
14 missioning of the facility.”.

15 **SEC. 627. LIMITATION ON LEGAL FEE REIMBURSEMENT.**

16 The Department of Energy shall not, except as re-
17 quired under a contract entered into before the date of
18 enactment of this Act, reimburse any contractor or sub-
19 contractor of the Department for any legal fees or ex-
20 penses incurred with respect to a complaint subsequent
21 to—

22 (1) an adverse determination on the merits with
23 respect to such complaint against the contractor or
24 subcontractor by the Director of the Department of
25 Energy’s Office of Hearings and Appeals pursuant
26 to part 708 of title 10, Code of Federal Regulations,

1 or by a Department of Labor Administrative Law
2 Judge pursuant to section 211 of the Energy Reor-
3 ganization Act of 1974 (42 U.S.C. 5851); or
4 (2) an adverse final judgment by any State or
5 Federal court with respect to such complaint against
6 the contractor or subcontractor for wrongful termi-
7 nation or retaliation due to the making of disclo-
8 sures protected under chapter 12 of title 5, United
9 States Code, section 211 of the Department of En-
10 ergy Reorganization Act of 1974 (42 U.S.C. 5851),
11 or any comparable State law,
12 unless the adverse determination or final judgment is re-
13 versed upon further administrative or judicial review.

14 **SEC. 628. DECOMMISSIONING PILOT PROGRAM.**

15 (a) PILOT PROGRAM.—The Secretary shall establish
16 a decommissioning pilot program to decommission and de-
17 contaminate the sodium-cooled fast breeder experimental
18 test-site reactor located in northwest Arkansas in accord-
19 ance with the decommissioning activities contained in the
20 August 31, 1998, Department of Energy report on the
21 reactor.

22 (b) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to carry out this section
24 \$16,000,000.

1 **SEC. 629. PLAN FOR WESTERN NEW YORK SERVICE CEN-**
2 **TER.**

3 Not later than December 31, 2004, the Secretary of
4 Energy shall transmit to the Congress a plan for the
5 transfer to the Secretary of title to, and full responsibility
6 for the possession, transportation, disposal, stewardship,
7 maintenance, and monitoring of, all facilities, property,
8 and radioactive waste at the Western New York Service
9 Center in West Valley, New York. The Secretary shall con-
10 sult with the President of the New York State Energy Re-
11 search and Development Authority in developing such
12 plan.

13 **SEC. 630. REPORT ON FEASIBILITY OF DEVELOPING COM-**
14 **MERCIAL NUCLEAR ENERGY GENERATION**
15 **FACILITIES AT EXISTING DEPARTMENT OF**
16 **ENERGY SITES.**

17 Not later than 1 year after the date of the enactment
18 of this Act, the Secretary shall submit to Congress a re-
19 port on the feasibility of developing commercial nuclear
20 energy generation facilities at Department of Energy sites
21 in existence on the date of enactment of this Act.

22 **SEC. 631. URANIUM SALES.**

23 (a) SALES, TRANSFERS, AND SERVICES.—Section
24 3112 of the USEC Privatization Act (42 U.S.C. 2297h–
25 10) is amended by striking subsections (d), (e), and (f)
26 and inserting the following:

1 “(3) The Secretary may transfer to the Cor-
2 poration, notwithstanding subsections (b)(2) and
3 (d), natural uranium in amounts sufficient to fulfill
4 the Department of Energy’s commitments under Ar-
5 ticle 4(B) of the Agreement between the Department
6 and the Corporation dated June 17, 2002.

7 “(d) INVENTORY SALES.—(1) In addition to the
8 transfers and sales authorized under subsections (b) and
9 (c) and under paragraph (5) of this subsection, the United
10 States Government may transfer or sell uranium in any
11 form subject to paragraphs (2), (3), and (4).

12 “(2) Except as provided in subsections (b) and (c)
13 and paragraph (5) of this subsection, no sale or transfer
14 of uranium shall be made under this subsection by the
15 United States Government unless—

16 “(A) the President determines that the material
17 is not necessary for national security needs;

18 “(B) the price paid to the appropriate Federal
19 agency, if the transaction is a sale, will not be less
20 than the fair market value of the material; and

21 “(C) the sale or transfer to commercial nuclear
22 power end users is made pursuant to a contract of
23 at least 3 years’ duration.

24 “(3) Except as provided in paragraph (5), the United
25 States Government shall not make any transfer or sale

1 of uranium in any form under this subsection that would
2 cause the total amount of uranium transferred or sold pur-
3 suant to this subsection that is delivered for consumption
4 by commercial nuclear power end users to exceed—

5 “(A) 3,000,000 pounds of U_3O_8 equivalent in
6 fiscal year 2004, 2005, 2006, 2007, 2008, or 2009;

7 “(B) 5,000,000 pounds of U_3O_8 equivalent in
8 fiscal year 2010 or 2011;

9 “(C) 7,000,000 pounds of U_3O_8 equivalent in
10 fiscal year 2012; and

11 “(D) 10,000,000 pounds of U_3O_8 equivalent in
12 fiscal year 2013 or any fiscal year thereafter.

13 “(4) Except for sales or transfers under paragraph
14 (5), for the purposes of this subsection, the recovery of
15 uranium from uranium bearing materials transferred or
16 sold by the United States Government to the domestic
17 uranium industry shall be the preferred method of making
18 uranium available. The recovered uranium shall be count-
19 ed against the annual maximum deliveries set forth in this
20 section, when such uranium is sold to end users.

21 “(5) The United States Government may make the
22 following sales and transfers:

23 “(A) Sales or transfers to a Federal agency if
24 the material is transferred for the use of the receiv-
25 ing agency without any resale or transfer to another

1 entity and the material does not meet commercial
2 specifications.

3 “(B) Sales or transfers to any person for na-
4 tional security purposes, as determined by the Sec-
5 retary.

6 “(C) Sales or transfers to any State or local
7 agency or nonprofit, charitable, or educational insti-
8 tution for use other than the generation of electricity
9 for commercial use.

10 “(D) Sales or transfers to the Department of
11 Energy research reactor sales program.

12 “(E) Sales or transfers, at fair market value,
13 for emergency purposes in the event of a disruption
14 in supply to commercial nuclear power end users in
15 the United States.

16 “(F) Sales or transfers, at fair market value,
17 for use in a commercial reactor in the United States
18 with nonstandard fuel requirements.

19 “(e) SAVINGS PROVISION.—Nothing in this sub-
20 chapter modifies the terms of the Russian HEU Agree-
21 ment.

22 “(f) SERVICES.—Notwithstanding any other provi-
23 sion of this section, if the Secretary determines that the
24 Corporation has failed, or may fail, to perform any obliga-
25 tion under the Agreement between the Department of En-

1 ergy and the Corporation dated June 17, 2002, and as
2 amended thereafter, which failure could result in termi-
3 nation of the Agreement, the Secretary shall notify the
4 Committee on Energy and Commerce of the House of
5 Representatives and the Committee on Energy and Nat-
6 ural Resources of the Senate, in such a manner that af-
7 fords the Committees an opportunity to comment, prior
8 to a determination by the Secretary whether termination,
9 waiver, or modification of the Agreement is required. The
10 Secretary is authorized to take such action as he deter-
11 mines necessary under the Agreement to terminate, waive,
12 or modify provisions of the Agreement to achieve its pur-
13 poses.”.

14 (b) REPORT.—Within 3 years after the date of enact-
15 ment of this Act, the Secretary shall report to the Con-
16 gress on the implementation of this section. The report
17 shall include a discussion of available excess uranium in-
18 ventories, all sales or transfers made by the United States
19 Government, the impact of such sales or transfers on the
20 domestic uranium industry, the spot market uranium
21 price, and the national security interests of the United
22 States, and any steps taken to remediate any adverse im-
23 pacts of such sales or transfers.

1 **SEC. 632. COOPERATIVE RESEARCH AND DEVELOPMENT**
2 **AND SPECIAL DEMONSTRATION PROJECTS**
3 **FOR THE URANIUM MINING INDUSTRY.**

4 (a) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to the Secretary of En-
6 ergy \$10,000,000 for each of fiscal years 2004, 2005, and
7 2006 for—

8 (1) cooperative, cost-shared agreements between
9 the Department of Energy and domestic uranium
10 producers to identify, test, and develop improved in
11 situ leaching mining technologies, including low-cost
12 environmental restoration technologies that may be
13 applied to sites after completion of in situ leaching
14 operations; and

15 (2) funding for competitively selected dem-
16 onstration projects with domestic uranium producers
17 relating to—

18 (A) enhanced production with minimal en-
19 vironmental impacts;

20 (B) restoration of well fields; and

21 (C) decommissioning and decontamination
22 activities.

23 (b) DOMESTIC URANIUM PRODUCER.—For purposes
24 of this section, the term “domestic uranium producer” has
25 the meaning given that term in section 1018(4) of the En-
26 ergy Policy Act of 1992 (42 U.S.C. 2296b–7(4)), except

1 that the term shall not include any producer that has not
2 produced uranium from domestic reserves on or after July
3 30, 1998.

4 (c) LIMITATION.—No activities funded under this
5 section may be carried out in the State of New Mexico.

6 **SEC. 633. WHISTLEBLOWER PROTECTION.**

7 (a) DEFINITION OF EMPLOYER.—Section 211(a)(2)
8 of the Energy Reorganization Act of 1974 (42 U.S.C.
9 5851(a)(2)) is amended—

10 (1) in subparagraph (C), by striking “and” at
11 the end;

12 (2) in subparagraph (D), by striking the period
13 at the end and inserting “; and” and

14 (3) by adding at the end the following:

15 “(E) a contractor or subcontractor of the
16 Commission.”.

17 (b) DE NOVO REVIEW.—Subsection (b) of such sec-
18 tion 211 is amended by adding at the end the following
19 new paragraph:

20 “(4) If the Secretary has not issued a final de-
21 cision within 540 days after the filing of a complaint
22 under paragraph (1), and there is no showing that
23 such delay is due to the bad faith of the person
24 seeking relief under this paragraph, such person
25 may bring an action at law or equity for de novo re-

1 view in the appropriate district court of the United
2 States, which shall have jurisdiction over such an ac-
3 tion without regard to the amount in controversy.”.

4 **[SEC. 634. MEDICAL ISOTOPE PRODUCTION.**

5 Section 134 of the Atomic Energy Act of 1954 (42
6 U.S.C. 2160d) is amended—

7 (1) by redesignating subsection b. as subsection
8 f.;

9 (2) by inserting after subsection a. the fol-
10 lowing:

11 “b. The Commission may issue a license authorizing
12 the export (including shipment to and use at intermediate
13 and ultimate consignees specified in the license) to a Re-
14 cipient Country of highly enriched uranium for medical
15 isotope production if, in addition to any other require-
16 ments of this Act, the Commission determines that—

17 “(1) a Recipient Country that supplies an as-
18 surance letter to the United States Government in
19 connection with the Commission’s consideration of
20 the export license application has informed the
21 United States Government that any intermediate
22 consignees and the ultimate consignee specified in
23 the application are required to use such highly en-
24 riched uranium solely to produce medical isotopes;
25 and

1 “(2) the highly enriched uranium for medical
2 isotope production will be irradiated only in a reac-
3 tor in a Recipient Country that—

4 “(A) uses an alternative nuclear reactor
5 fuel; or

6 “(B) is the subject of an agreement with
7 the United States Government to convert to an
8 alternative nuclear reactor fuel when such fuel
9 can be used in that reactor.

10 “c. Applications to the Commission for licenses au-
11 thorizing the export to a Recipient Country of highly en-
12 riched uranium for medical isotope production shall be
13 subject to subsection b., and subsection a. shall not be ap-
14 plicable to such exports.

15 “d. The Commission is authorized to specify, by rule-
16 making or decision in connection with an export license
17 application, that a country other than a Recipient Country
18 may receive exports of highly enriched uranium for med-
19 ical isotope production in accordance with the same cri-
20 teria established by subsection b. for exports to a Reci-
21 ent Country, upon the Commission’s finding that such ad-
22 ditional country is a party to the Treaty on the Non-
23 proliferation of Nuclear Weapons and the Convention on
24 the Physical Protection of Nuclear Material and will re-
25 ceive such highly enriched uranium pursuant to an agree-

1 ment with the United States concerning peaceful uses of
2 nuclear energy.

3 “e. The Commission shall review the adequacy of
4 physical protection requirements that are currently appli-
5 cable to the transportation of highly enriched uranium for
6 medical isotope production. If the Commission determines
7 that additional physical protection measures are nec-
8 essary, including any limits that the Commission finds are
9 necessary on the quantity of highly enriched uranium con-
10 tained in a single shipment for medical isotope production,
11 the Commission shall impose such requirements, as license
12 conditions or through other appropriate means.”; and

13 (3) in subsection f., as so redesignated by para-
14 graph (1) of this section—

15 (A) by striking “and” at the end of para-
16 graph (2);

17 (B) by striking the period at the end of
18 paragraph (3)(B) and inserting a semicolon;
19 and

20 (C) by adding at the end the following:

21 “(4) the term ‘highly enriched uranium for
22 medical isotope production’ means highly enriched
23 uranium contained in, or for use in, targets to be ir-
24 radiated for the sole purpose of producing medical
25 isotopes;

1 “(5) the term ‘medical isotopes’ means radio-
2 active isotopes, including Molybdenum 99, Iodine
3 131, and Xenon 133, that are used to produce radio-
4 pharmaceuticals for diagnostic or therapeutic proce-
5 dures on patients, or in connection with research
6 and development of radiopharmaceuticals;

7 “(6) the term ‘radiopharmaceuticals’ means ra-
8 dioactive isotopes containing byproduct material
9 combined with chemical or biological material that
10 are designed to accumulate temporarily in a part of
11 the body, for therapeutic purposes or for enabling
12 the production of a useful image of the appropriate
13 body organ or function for use in diagnosis of med-
14 ical conditions; and

15 “(7) the term ‘Recipient Country’ means Can-
16 ada, Belgium, France, Germany, and the Nether-
17 lands.”.]

18 **SEC. 635. FERNALD BYPRODUCT MATERIAL.**

19 Notwithstanding any other law, the material in the
20 concrete silos at the Fernald uranium processing facility
21 managed on the date of enactment of this Act by the De-
22 partment of Energy shall be considered byproduct mate-
23 rial (as defined by section 11 e.(2) of the Atomic Energy
24 Act of 1954 (42 U.S.C. 2014(e)(2))). The Department of
25 Energy may dispose of the material in a facility regulated

1 by the Nuclear Regulatory Commission or by an Agree-
2 ment State. If the Department of Energy disposes of the
3 material in such a facility, the Nuclear Regulatory Com-
4 mission or the Agreement State shall regulate the material
5 as byproduct material under that Act. This material shall
6 remain subject to the jurisdiction of the Department of
7 Energy until it is received at a commercial, Nuclear Regu-
8 latory Commission-licensed, or Agreement State-licensed
9 facility, at which time the material shall be subject to the
10 health and safety requirements of the Nuclear Regulatory
11 Commission or the Agreement State with jurisdiction over
12 the disposal site.

13 **SEC. 636. SAFE DISPOSAL OF GREATER-THAN-CLASS C RA-**
14 **DIOACTIVE WASTE.**

15 (a) DESIGNATION OF RESPONSIBILITY.—The Sec-
16 retary of Energy shall designate an Office within the De-
17 partment of Energy to have the responsibility for activities
18 needed to develop a new, or use an existing, facility for
19 safely disposing of all low-level radioactive waste with con-
20 centrations of radionuclides that exceed the limits estab-
21 lished by the Nuclear Regulatory Commission for Class
22 C radioactive waste (referred to in this section as “GTCC
23 waste”).

24 (b) COMPREHENSIVE PLAN.—The Secretary of En-
25 ergy shall develop a comprehensive plan for permanent

1 disposal of GTCC waste which includes plans for a dis-
2 posal facility. This plan shall be transmitted to Congress
3 in a series of reports, including the following:

4 (1) REPORT ON SHORT-TERM PLAN.—Not later
5 than 180 days after the date of enactment of this
6 Act, the Secretary of Energy shall submit to Con-
7 gress a plan describing the Secretary's operational
8 strategy for continued recovery and storage of
9 GTCC waste until a permanent disposal facility is
10 available.

11 (2) UPDATE OF 1987 REPORT.—

12 (A) IN GENERAL.—Not later than 1 year
13 after the date of enactment of this Act, the Sec-
14 retary of Energy shall submit to Congress an
15 update of the Secretary's February 1987 report
16 submitted to Congress that made comprehen-
17 sive recommendations for the disposal of GTCC
18 waste.

19 (B) CONTENTS.—The update under this
20 paragraph shall contain—

21 (i) a detailed description and identi-
22 fication of the GTCC waste that is to be
23 disposed;

24 (ii) a description of current domestic
25 and international programs, both Federal

1 and commercial, for management and dis-
2 position of GTCC waste;

3 (iii) an identification of the Federal
4 and private options and costs for the safe
5 disposal of GTCC waste;

6 (iv) an identification of the options for
7 ensuring that, wherever possible, genera-
8 tors and users of GTCC waste bear all rea-
9 sonable costs of waste disposal;

10 (v) an identification of any new statu-
11 tory authority required for disposal of
12 GTCC waste; and

13 (vi) in coordination with the Environ-
14 mental Protection Agency and the Nuclear
15 Regulatory Commission, an identification
16 of any new regulatory guidance needed for
17 the disposal of GTCC waste.

18 (3) REPORT ON COST AND SCHEDULE FOR
19 COMPLETION OF ENVIRONMENTAL IMPACT STATE-
20 MENT AND RECORD OF DECISION.—Not later than
21 180 days after the date of submission of the update
22 required under paragraph (2), the Secretary of En-
23 ergy shall submit to Congress a report containing an
24 estimate of the cost and schedule to complete a draft
25 and final environmental impact statement and to

1 issue a record of decision for a permanent disposal
2 facility, utilizing either a new or existing facility, for
3 GTCC waste.

4 **SEC. 637. PROHIBITION ON NUCLEAR EXPORTS TO COUN-**
5 **TRIES THAT SPONSOR TERRORISM.**

6 (a) IN GENERAL.—Section 129 of the Atomic Energy
7 Act of 1954 (42 U.S.C. 2158) is amended—

8 (1) by inserting “a.” before “No nuclear mate-
9 rials and equipment”; and

10 (2) by adding at the end the following new sub-
11 section:

12 “b.(1) Notwithstanding any other provision of law,
13 including specifically section 121 of this Act, and except
14 as provided in paragraphs (2) and (3), no nuclear mate-
15 rials and equipment or sensitive nuclear technology, in-
16 cluding items and assistance authorized by section 57 b.
17 of this Act and regulated under part 810 of title 10, Code
18 of Federal Regulations, and nuclear-related items on the
19 Commerce Control List, shall be exported or reexported,
20 or transferred or retransferred whether directly or indi-
21 rectly, and no Federal agency shall issue any license, ap-
22 proval, or authorization for the export or reexport, or
23 transfer, or retransfer, whether directly or indirectly, of
24 these items or assistance (as defined in this paragraph)
25 to any country whose government has been identified by

1 the Secretary of State as engaged in state sponsorship of
2 terrorist activities (specifically including any country the
3 government of which has been determined by the Sec-
4 retary of State under section 620A(a) of the Foreign As-
5 sistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1)
6 of the Export Administration Act of 1979 (50 U.S.C. App.
7 2405(j)(1)), or section 40(d) of the Arms Export Control
8 Act (22 U.S.C. 2780(d)) to have repeatedly provided sup-
9 port for acts of international terrorism).

10 “(2) This subsection shall not apply to exports, reex-
11 ports, transfers, or retransfers of radiation monitoring
12 technologies, surveillance equipment, seals, cameras, tam-
13 per-indication devices, nuclear detectors, monitoring sys-
14 tems, or equipment necessary to safely store, transport,
15 or remove hazardous materials, whether such items, serv-
16 ices, or information are regulated by the Department of
17 Energy, the Department of Commerce, or the Nuclear
18 Regulatory Commission, except to the extent that such
19 technologies, equipment, seals, cameras, devices, detectors,
20 or systems are available for use in the design or construc-
21 tion of nuclear reactors or nuclear weapons.

22 “(3) The President may waive the application of
23 paragraph (1) to a country if the President determines
24 and certifies to Congress that the waiver will not result
25 in any increased risk that the country receiving the waiver

1 will acquire nuclear weapons, nuclear reactors, or any ma-
2 terials or components of nuclear weapons and—

3 “(A) the government of such country has not
4 within the preceding 12-month period willfully aided
5 or abetted the international proliferation of nuclear
6 explosive devices to individuals or groups or willfully
7 aided and abetted an individual or groups in acquir-
8 ing unsafeguarded nuclear materials;

9 “(B) in the judgment of the President, the gov-
10 ernment of such country has provided adequate, ver-
11 ifiable assurances that it will cease its support for
12 acts of international terrorism;

13 “(C) the waiver of that paragraph is in the vital
14 national security interest of the United States; or

15 “(D) such a waiver is essential to prevent or re-
16 spond to a serious radiological hazard in the country
17 receiving the waiver that may or does threaten pub-
18 lic health and safety.”.

19 (b) APPLICABILITY TO EXPORTS APPROVED FOR
20 TRANSFER BUT NOT TRANSFERRED.—Subsection b. of
21 section 129 of Atomic Energy Act of 1954, as added by
22 subsection (a) of this section, shall apply with respect to
23 exports that have been approved for transfer as of the date
24 of the enactment of this Act but have not yet been trans-
25 ferred as of that date.

1 **Subtitle C—Advanced Reactor**
2 **Hydrogen Cogeneration Project**

3 **SEC. 651. PROJECT ESTABLISHMENT.**

4 The Secretary is directed to establish an Advanced
5 Reactor Hydrogen Cogeneration Project.

6 **SEC. 652. PROJECT DEFINITION.**

7 The project shall consist of the research, develop-
8 ment, design, construction, and operation of a hydrogen
9 production cogeneration research facility that, relative to
10 the current commercial reactors, enhances safety features,
11 reduces waste production, enhances thermal efficiencies,
12 increases proliferation resistance, and has the potential for
13 improved economics and physical security in reactor siting.
14 This facility shall be constructed so as to enable research
15 and development on advanced reactors of the type selected
16 and on alternative approaches for reactor-based produc-
17 tion of hydrogen.

18 **SEC. 653. PROJECT MANAGEMENT.**

19 (a) **MANAGEMENT.**—The project shall be managed
20 within the Department by the Office of Nuclear Energy,
21 Science, and Technology.

22 (b) **LEAD LABORATORY.**—The lead laboratory for the
23 project, providing the site for the reactor construction,
24 shall be the Idaho National Engineering and Environ-

1 mental Laboratory (in this subtitle referred to as
2 “INEEL”).

3 (c) STEERING COMMITTEE.—The Secretary shall es-
4 tablish a national steering committee with membership
5 from the national laboratories, universities, and industry
6 to provide advice to the Secretary and the Director of the
7 Office of Nuclear Energy, Science, and Technology on
8 technical and program management aspects of the project.

9 (d) COLLABORATION.—Project activities shall be con-
10 ducted at INEEL, other national laboratories, univer-
11 sities, domestic industry, and international partners.

12 **SEC. 654. PROJECT REQUIREMENTS.**

13 (a) RESEARCH AND DEVELOPMENT.—(1) The
14 project shall include planning, research and development,
15 design, and construction of an advanced, next-generation,
16 nuclear energy system suitable for enabling further re-
17 search and development on advanced reactor technologies
18 and alternative approaches for reactor-based generation of
19 hydrogen.

20 (2) The project shall utilize, where appropriate, ex-
21 tensive reactor test capabilities resident at INEEL.

22 (3) The project shall be designed to explore technical,
23 environmental, and economic feasibility of alternative ap-
24 proaches for reactor-based hydrogen production.

1 (4) The industrial lead for the project shall be a com-
2 pany incorporated in the United States.

3 (b) INTERNATIONAL COLLABORATION.—(1) The Sec-
4 retary shall seek international cooperation, participation,
5 and financial contribution in this project.

6 (2) The Secretary may contract for assistance from
7 specialists or facilities from member countries of the Gen-
8 eration IV International Forum, the Russian Federation,
9 or other international partners where such specialists or
10 facilities provide access to cost-effective and relevant skills
11 or test capabilities.

12 (3) International activities shall be coordinated with
13 the Generation IV International Forum.

14 (4) The Secretary may combine this project with the
15 Generation IV Nuclear Energy Systems Program.

16 (c) DEMONSTRATION.—The overall project, which
17 may involve demonstration of selected project objectives
18 in a partner nation, must demonstrate both electricity and
19 hydrogen production and may provide flexibility, where
20 technically and economically feasible in the design and
21 construction, to enable tests of alternative reactor core
22 and cooling configurations.

23 (d) PARTNERSHIPS.—The Secretary shall establish
24 cost-shared partnerships with domestic industry or inter-
25 national participants for the research, development, de-

1 sign, construction, and operation of the research facility,
2 and preference in determining the final project structure
3 shall be given to an overall project which retains United
4 States leadership while maximizing cost sharing opportu-
5 nities and minimizing Federal funding responsibilities.

6 (e) TARGET DATE.—The Secretary shall select tech-
7 nologies and develop the project to provide initial testing
8 of either hydrogen production or electricity generation by
9 2010, or provide a report to Congress why this date is
10 not feasible.

11 (f) WAIVER OF CONSTRUCTION TIMELINES.—The
12 Secretary is authorized to conduct the Advanced Reactor
13 Hydrogen Cogeneration Project without the constraints of
14 DOE Order 413.3 as necessary to meet the specified oper-
15 ational date.

16 (g) COMPETITION.—The Secretary may fund up to
17 two teams for up to one year to develop detailed proposals
18 for competitive evaluation and selection of a single pro-
19 posal and concept for further progress. The Secretary
20 shall define the format of the competitive evaluation of
21 proposals.

22 (h) USE OF FACILITIES.—Research facilities in in-
23 dustry, national laboratories, or universities either within
24 the United States or with cooperating international part-
25 ners may be used to develop the enabling technologies for

1 the research facility. Utilization of domestic university-
2 based facilities shall be encouraged to provide educational
3 opportunities for student development.

4 (i) ROLE OF NUCLEAR REGULATORY COMMISSION.—

5 (1) The Nuclear Regulatory Commission shall have licens-
6 ing and regulatory authority for any reactor authorized
7 under this subtitle, pursuant to section 202 of the Energy
8 Reorganization Act of 1974 (42 U.S.C. 5842).

9 (2) The Secretary shall seek active participation of
10 the Nuclear Regulatory Commission throughout the
11 project to develop risk-based criteria for any future com-
12 mercial development of a similar reactor architecture.

13 (j) REPORT.—The Secretary shall develop and trans-
14 mit to Congress a comprehensive project plan not later
15 than April 30, 2004. The project plan shall be updated
16 annually with each annual budget submission.

17 **SEC. 655. AUTHORIZATION OF APPROPRIATIONS.**

18 (a) RESEARCH, DEVELOPMENT, AND DESIGN PRO-
19 GRAMS.—The following sums are authorized to be appro-
20 priated to the Secretary for all activities under this sub-
21 title except for construction activities described in sub-
22 section (b):

23 (1) For fiscal year 2004, \$35,000,000.

24 (2) For each of fiscal years 2005 through 2008,
25 \$150,000,000.

1 (3) For fiscal years beyond 2008, such sums as
2 are necessary.

3 (b) CONSTRUCTION.—There are authorized to be ap-
4 propriated to the Secretary for all project-related con-
5 struction activities, to be available until expended,
6 \$500,000,000.

7 **Subtitle D—Nuclear Security**

8 **SEC. 661. NUCLEAR FACILITY THREATS.**

9 (a) STUDY.—The President, in consultation with the
10 Nuclear Regulatory Commission (referred to in this sub-
11 title as the “Commission”) and other appropriate Federal,
12 State, and local agencies and private entities, shall con-
13 duct a study to identify the types of threats that pose an
14 appreciable risk to the security of the various classes of
15 facilities licensed by the Commission under the Atomic
16 Energy Act of 1954 (42 U.S.C. 2011 et seq.). Such study
17 shall take into account, but not be limited to—

- 18 (1) the events of September 11, 2001;
- 19 (2) an assessment of physical, cyber, bio-
20 chemical, and other terrorist threats;
- 21 (3) the potential for attack on facilities by mul-
22 tiple coordinated teams of a large number of individ-
23 uals;
- 24 (4) the potential for assistance in an attack
25 from several persons employed at the facility;

1 (5) the potential for suicide attacks;

2 (6) the potential for water-based and air-based
3 threats;

4 (7) the potential use of explosive devices of con-
5 siderable size and other modern weaponry;

6 (8) the potential for attacks by persons with a
7 sophisticated knowledge of facility operations;

8 (9) the potential for fires, especially fires of
9 long duration;

10 (10) the potential for attacks on spent fuel
11 shipments by multiple coordinated teams of a large
12 number of individuals;

13 (11) the adequacy of planning to protect the
14 public health and safety at and around nuclear fa-
15 cilities, as appropriate, in the event of a terrorist at-
16 tack against a nuclear facility; and

17 (12) the potential for theft and diversion of nu-
18 clear materials from such facilities.

19 (b) SUMMARY AND CLASSIFICATION REPORT.—Not
20 later than 180 days after the date of the enactment of
21 this Act, the President shall transmit to the Congress and
22 the Commission a report—

23 (1) summarizing the types of threats identified
24 under subsection (a); and

1 (2) classifying each type of threat identified
2 under subsection (a), in accordance with existing
3 laws and regulations, as either—

4 (A) involving attacks and destructive acts,
5 including sabotage, directed against the facility
6 by an enemy of the United States, whether a
7 foreign government or other person, or other-
8 wise falling under the responsibilities of the
9 Federal Government; or

10 (B) involving the type of risks that Com-
11 mission licensees should be responsible for
12 guarding against.

13 (c) FEDERAL ACTION REPORT.—Not later than 90
14 days after the date on which a report is transmitted under
15 subsection (b), the President shall transmit to the Con-
16 gress a report on actions taken, or to be taken, to address
17 the types of threats identified under subsection (b)(2)(A),
18 including identification of the Federal, State, and local
19 agencies responsible for carrying out the obligations and
20 authorities of the United States. Such report may include
21 a classified annex, as appropriate.

22 (d) REGULATIONS.—Not later than 180 days after
23 the date on which a report is transmitted under subsection
24 (b), the Commission is authorized by regulation to make
25 such revisions to the design basis threats promulgated be-

1 fore the date of enactment of this section as the Commis-
2 sion deems appropriate based on the summary and classi-
3 fication report.

4 (e) PHYSICAL SECURITY PROGRAM.—The Commis-
5 sion shall establish an operational safeguards response
6 evaluation program that ensures that the physical protec-
7 tion capability and operational safeguards response for
8 sensitive nuclear facilities, as determined by the Commis-
9 sion consistent with the protection of public health and
10 the common defense and security, shall be tested periodi-
11 cally through Commission approved or designed, observed,
12 and evaluated force-on-force exercises to determine wheth-
13 er the ability to defeat the design basis threat is being
14 maintained. For purposes of this subsection, the term
15 “sensitive nuclear facilities” includes at a minimum com-
16 mercial nuclear power plants and category I fuel cycle fa-
17 cilities.

18 (f) CONTROL OF INFORMATION.—Notwithstanding
19 any other provision of law, the Commission may undertake
20 any rulemaking under this subtitle in a manner that will
21 fully protect safeguards and classified national security in-
22 formation.

23 (g) FEDERAL SECURITY COORDINATORS.—

24 (1) REGIONAL OFFICES.—Not later than 18
25 months after the date of enactment of this Act, the

1 Commission shall assign a Federal security coordi-
2 nator, under the employment of the Commission, to
3 each region of the Commission.

4 (2) RESPONSIBILITIES.—The Federal security
5 coordinator shall be responsible for—

6 (A) communicating with the Commission
7 and other Federal, State, and local authorities
8 concerning threats, including threats against
9 such classes of facilities as the Commission de-
10 termines to be appropriate;

11 (B) ensuring that such classes of facilities
12 as the Commission determines to be appropriate
13 maintain security consistent with the security
14 plan in accordance with the appropriate threat
15 level; and

16 (C) assisting in the coordination of secu-
17 rity measures among the private security forces
18 at such classes of facilities as the Commission
19 determines to be appropriate and Federal,
20 State, and local authorities, as appropriate.

21 (h) TRAINING PROGRAM.—The President shall estab-
22 lish a program to provide technical assistance and training
23 to Federal agencies, the National Guard, and State and
24 local law enforcement and emergency response agencies in
25 responding to threats against a designated nuclear facility.

1 **SEC. 662. FINGERPRINTING FOR CRIMINAL HISTORY**
2 **RECORD CHECKS.**

3 (a) IN GENERAL.—Subsection a. of section 149 of
4 the Atomic Energy Act of 1954 (42 U.S.C. 2169(a)) is
5 amended—

6 (1) by striking “a. The Nuclear” and all that
7 follows through “section 147.” and inserting the fol-
8 lowing:

9 “a. IN GENERAL.—

10 “(1) REQUIREMENTS.—

11 “(A) IN GENERAL.— The Commission
12 shall require each individual or entity—

13 “(i) that is licensed or certified to en-
14 gage in an activity subject to regulation by
15 the Commission;

16 “(ii) that has filed an application for
17 a license or certificate to engage in an ac-
18 tivity subject to regulation by the Commis-
19 sion; or

20 “(iii) that has notified the Commis-
21 sion, in writing, of an intent to file an ap-
22 plication for licensing, certification, permit-
23 ting, or approval of a product or activity
24 subject to regulation by the Commission,
25 to fingerprint each individual described in sub-
26 paragraph (B) before the individual is per-

1 mitted unescorted access or access, whichever is
2 applicable, as described in subparagraph (B).

3 “(B) INDIVIDUALS REQUIRED TO BE
4 FINGERPRINTED.—The Commission shall re-
5 quire to be fingerprinted each individual who—

6 “(i) is permitted unescorted access
7 to—

8 “(I) a utilization facility; or

9 “(II) radioactive material or
10 other property subject to regulation
11 by the Commission that the Commis-
12 sion determines to be of such signifi-
13 cance to the public health and safety
14 or the common defense and security
15 as to warrant fingerprinting and back-
16 ground checks; or

17 “(ii) is permitted access to safeguards
18 information under section 147.”;

19 (2) by striking “All fingerprints obtained by a
20 licensee or applicant as required in the preceding
21 sentence” and inserting the following:

22 “(2) SUBMISSION TO THE ATTORNEY GEN-
23 ERAL.—All fingerprints obtained by an individual or
24 entity as required in paragraph (1)”;

1 (3) by striking “The costs of any identification
2 and records check conducted pursuant to the pre-
3 ceding sentence shall be paid by the licensee or ap-
4 plicant.” and inserting the following:

5 “(3) COSTS.—The costs of any identification
6 and records check conducted pursuant to paragraph
7 (1) shall be paid by the individual or entity required
8 to conduct the fingerprinting under paragraph
9 (1)(A).”; and

10 (4) by striking “Notwithstanding any other pro-
11 vision of law, the Attorney General may provide all
12 the results of the search to the Commission, and, in
13 accordance with regulations prescribed under this
14 section, the Commission may provide such results to
15 licensee or applicant submitting such fingerprints.”
16 and inserting the following:

17 “(4) PROVISION TO INDIVIDUAL OR ENTITY RE-
18 QUIRED TO CONDUCT FINGERPRINTING.—Notwith-
19 standing any other provision of law, the Attorney
20 General may provide all the results of the search to
21 the Commission, and, in accordance with regulations
22 prescribed under this section, the Commission may
23 provide such results to the individual or entity re-
24 quired to conduct the fingerprinting under para-
25 graph (1)(A).”.

1 (b) ADMINISTRATION—Subsection c. of section 149
2 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(c))
3 is amended—

4 (1) by striking “, subject to public notice and
5 comment, regulations—” and inserting “require-
6 ments—”; and

7 (2) by striking, in paragraph (2)(B),
8 “unescorted access to the facility of a licensee or ap-
9 plicant” and inserting “unescorted access to a utili-
10 zation facility, radioactive material, or other prop-
11 erty described in subsection a.(1)(B)”.

12 (c) BIOMETRIC METHODS.—Subsection d. of section
13 149 of the Atomic Energy Act of 1954 (42 U.S.C.
14 2169(d)) is redesignated as subsection e., and the fol-
15 lowing is inserted after subsection c.:

16 “d. USE OF OTHER BIOMETRIC METHODS.—The
17 Commission may satisfy any requirement for a person to
18 conduct fingerprinting under this section using any other
19 biometric method for identification approved for use by
20 the Attorney General, after the Commission has approved
21 the alternative method by rule.”.

1 **SEC. 663. USE OF FIREARMS BY SECURITY PERSONNEL OF**
2 **LICENSEES AND CERTIFICATE HOLDERS OF**
3 **THE COMMISSION.**

4 Section 161 of the Atomic Energy Act of 1954 (42
5 U.S.C. 2201) is amended by adding at the end the fol-
6 lowing subsection:

7 “y. authorize security personnel of licensees and
8 certificate holders of the Commission (including em-
9 ployees of contractors of licensees or certificate hold-
10 ers) who have successfully completed requirements
11 established by the Commission, after consultation
12 with the Attorney General, for training in use of
13 firearms and tactical maneuvers and who are en-
14 gaged in the protection of facilities owned or oper-
15 ated by a Commission licensee or certificate holder
16 that are designated by the Commission, or the pro-
17 tection of radioactive material or other property
18 owned or possessed by a person that is a licensee or
19 certificate holder of the Commission, or that is being
20 transported to or from a facility owned or operated
21 by such a licensee or certificate holder, and that has
22 been determined by the Commission to be of signifi-
23 cance to the common defense and security or public
24 health and safety, while in the discharge of their of-
25 ficial duties, to—

1 “(1) use, in appropriate circumstances,
2 such force as is necessary, including deadly
3 force, against an individual to prevent imminent
4 harm to any person, if they have reasonable
5 grounds to believe that the individual against
6 whom the deadly force is used has committed
7 any felony pertaining to a nuclear facility, ra-
8 dioactive material, or other property covered by
9 this subsection cognizable under the laws of the
10 United States or the State in which the offense
11 is committed, or that the use of deadly force is
12 necessary to prevent the individual from com-
13 mitting such a felony; and

14 “(2) to receive, possess, transport, and use,
15 if determined by the Commission to be nec-
16 essary to the discharge of their official duties,
17 one or more of the following: a handgun, a rifle
18 or shotgun, a short-barreled shotgun or rifle, a
19 machine gun, a semiautomatic assault weapon,
20 ammunition for the foregoing, or a large capac-
21 ity ammunition feeding device.

22 Any person who is licensed under Federal or State
23 law, to the extent applicable, to engage in the busi-
24 ness of importing, manufacturing, or dealing in the
25 foregoing firearms, ammunition, or large capacity

1 ammunition feeding devices may ship, transport, or
2 sell those items to any licensee or certificate holder
3 of the Commission for the use of the licensee's or
4 certificate holder's security personnel described in
5 this subsection. The Commission shall issue guide-
6 lines to implement this subsection, including restric-
7 tions contained in Federal statute regarding posses-
8 sion and use of firearms, ammunition, or large ca-
9 pacity ammunition feeding devices that the Attorney
10 General considers necessary.”.

11 **SEC. 664. UNAUTHORIZED INTRODUCTION OF DANGEROUS**
12 **WEAPONS.**

13 Section 229 a. of the Atomic Energy Act of 1954 (42
14 U.S.C. 2278a(a)) is amended in the first sentence by in-
15 serting “or subject to the licensing authority of the Com-
16 mission or to certification by the Commission under this
17 Act or any other Act” before the period at the end.

18 **SEC. 665. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.**

19 (a) IN GENERAL.—Section 236 a. of the Atomic En-
20 ergy Act of 1954 (42 U.S.C. 2284(a)) is amended—

21 (1) in the first sentence, by striking “or who in-
22 tentionally and willfully attempts” and inserting “or
23 who attempts or conspires”;

1 (2) in paragraph (2), by striking “storage facil-
2 ity” and inserting “storage, treatment, or disposal
3 facility”;

4 (3) in paragraph (3)—

5 (A) by striking “such a utilization facility”
6 and inserting “a utilization facility licensed
7 under this Act”; and

8 (B) by striking “or” at the end;

9 (4) in paragraph (4)—

10 (A) by striking “facility licensed” and in-
11 serting “, uranium conversion, or nuclear fuel
12 fabrication facility licensed or certified”; and

13 (B) by striking the period at the end and
14 inserting a semicolon; and

15 (5) by inserting after paragraph (4) the fol-
16 lowing:

17 “(5) any production, utilization, waste storage,
18 waste treatment, waste disposal, uranium enrich-
19 ment, uranium conversion, or nuclear fuel fabrica-
20 tion facility subject to licensing or certification
21 under this Act during construction of the facility, if
22 the destruction or damage caused or attempted to be
23 caused could adversely affect public health and safe-
24 ty during the operation of the facility;

1 “(6) any primary facility or backup facility
2 from which a radiological emergency preparedness
3 alert and warning system is activated; or

4 “(7) any radioactive material or other property
5 subject to regulation by the Nuclear Regulatory
6 Commission that, before the date of the offense, the
7 Nuclear Regulatory Commission determines, by
8 order or regulation published in the Federal Reg-
9 ister, is of significance to the public health and safe-
10 ty or to common defense and security;”.

11 (b) PENALTIES.—Section 236 of the Atomic Energy
12 Act of 1954 (42 U.S.C. 2284) is amended by striking
13 “\$10,000 or imprisoned for not more than ten years” both
14 places it appears and inserting “\$1,000,000 or imprisoned
15 for up to life without parole”.

16 **SEC. 666. SECURE TRANSFER OF NUCLEAR MATERIALS.**

17 (a) AMENDMENT.—Chapter 14 of the Atomic Energy
18 Act of 1954 (42 U.S.C. 2201–2210b) is amended by add-
19 ing at the end the following new section:

20 **“SEC. 170C. SECURE TRANSFER OF NUCLEAR MATERIALS.**

21 “a. The Nuclear Regulatory Commission shall estab-
22 lish a system to ensure that materials described in sub-
23 section b., when transferred or received in the United
24 States by any party pursuant to an import or export li-
25 cense issued pursuant to this Act, are accompanied by a

1 manifest describing the type and amount of materials
2 being transferred or received. Each individual receiving or
3 accompanying the transfer of such materials shall be sub-
4 ject to a security background check conducted by appro-
5 priate Federal entities.

6 “b. Except as otherwise provided by the Commission
7 by regulation, the materials referred to in subsection a.
8 are byproduct materials, source materials, special nuclear
9 materials, high-level radioactive waste, spent nuclear fuel,
10 transuranic waste, and low-level radioactive waste (as de-
11 fined in section 2(16) of the Nuclear Waste Policy Act
12 of 1982 (42 U.S.C. 10101(16))).”.

13 (b) REGULATIONster than 1 year after the date of
14 the enactment of this Act, and from time to time there-
15 after as it considers necessary, the Nuclear Regulatory
16 Commission shall issue regulations identifying radioactive
17 materials or classes of individuals that, consistent with the
18 protection of public health and safety and the common de-
19 fense and security, are appropriate exceptions to the re-
20 quirements of section 170C of the Atomic Energy Act of
21 1954, as added by subsection (a) of this section.

22 (c) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall take effect upon the issuance of regu-
24 lations under subsection (b), except that the background

1 check requirement shall become effective on a date estab-
2 lished by the Commission.

3 (d) EFFECT ON OTHER LAW.—Nothing in this sec-
4 tion or the amendment made by this section shall waive,
5 modify, or affect the application of chapter 51 of title 49,
6 United States Code, part A of subtitle V of title 49,
7 United States Code, part B of subtitle VI of title 49,
8 United States Code, and title 23, United States Code.

9 (e) TABLE OF SECTIONS AMENDMENT.—The table of
10 sections for chapter 14 of the Atomic Energy Act of 1954
11 is amended by adding at the end the following new item:

“Sec. 170C. Secure transfer of nuclear materials.”.

12 **SEC. 667. UNREASONABLE RISK CONSULTATION.**

13 Before issuing a license or license renewal for a utili-
14 zation facility, the Nuclear Regulatory Commission shall
15 consult with the Department of Homeland Security con-
16 cerning whether the location of the proposed facility and
17 the design of that type of facility ensure that the facility
18 provides for adequate protection of public health and safe-
19 ty if subject to a terrorist attack.

20 **SEC. 668. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) IN GENERAL.—There are authorized to be appro-
22 priated such sums as are necessary to carry out the
23 amendments made by this subtitle.

1 (b) AGGREGATE AMOUNT OF CHARGES.—Section
2 6101(c)(2)(A) of the Omnibus Budget Reconciliation Act
3 of 1990 (42 U.S.C. 2214(c)(2)(A)) is amended—

4 (1) in clause (i), by striking “and” at the end;

5 (2) in clause (ii), by striking the period at the
6 end and inserting “; and” and

7 (3) by adding at the end the following:

8 “(iii) amounts appropriated to the
9 Commission for homeland security activi-
10 ties of the Commission for the fiscal year,
11 except for the costs of fingerprinting and
12 background checks required by section 149
13 of the Atomic Energy Act of 1954 (42
14 U.S.C. 2169) and the costs of conducting
15 security inspections.”.